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**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON**

Alysha E. Chandra,

Plaintiff,

v.

Pierce County Prosecutor's Office,
and Mary Robnett, individually,
Defendants.

NO. 20-cv-5787

COMPLAINT AND DEMAND FOR
TRIAL BY JURY

**EXEMPT FROM FILING FEES
UNDER 38 U.S.C. § 4323(h)(1)**

I. INTRODUCTION

1. This civil action is brought pursuant to the Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. §§ 4301 - 4335 (USERRA) and is exempt from filing fees under 38 U.S.C. § 4323(h)(1).

2. Plaintiff, Alysha E. Chandra (hereinafter "Ms. Chandra" or Plaintiff"), by the undersigned attorneys, as stated herein.

II. PARTIES AND JURISDICTION

3. Ms. Chandra resided in the State of Washington and was an employee of Defendants at all times pertinent hereto.

1 4. At all times relevant to this lawsuit Ms. Chandra was an enlisted accession
2 to officer candidate in the Army National Guard.

3 5. Defendant, Pierce County Prosecutor's office is an employer in
4 Washington.

5 6. Defendant, Mary Robnett, is the Pierce County Prosecutor.

6 7. Each of the above individual Defendants exercised control over the
7 employment benefits and opportunities of Ms. Chandra, was a primary decision maker
8 regarding Defendants' violation of Ms. Chandra's rights, and for the purposes of 38
9 U.S.C. §§ 4303(4) and 4323(c)(2) is a private employer.

10 8. All acts complained of occurred within the Western District of Washington.

11 9. The Federal Court for the Western District of Washington has personal
12 jurisdiction over the parties and subject matter jurisdiction for the claims in this complaint
13 pursuant to 38 U.S.C. § 4323(b), 28 U.S.C. § 1331, 28 U.S.C. § 1367(a).

14 10. Venue is proper in the Eastern District of Washington under 38 U.S.C. §
15 4323(c) and 28 U.S.C. § 1391(b) because the acts and omissions complained herein
16 occurred in the District and Defendants conduct business there.

17 **III. INTRADISTRICT ASSIGNMENT**

18 11. This action arose in Pierce County, Washington; therefore, pursuant to
19 local rules it should be assigned to the Tacoma Division of the Western District of
20 Washington.

21 **IV. FACTS**

22 12. On January 16, 2020, Defendants interviewed Ms. Chandra for the position
23 of Deputy Prosecuting Attorney (DPA) with the pay scale of (County Attorney 1).
24

1 13. On January 17, 2020, Ms. Chandra was hired as a DPA in the firm
2 assigned to certain misdemeanor cases.

3 14. On January 22, 2020, Ms. Chandra began employment with the
4 defendants and was assigned to the courtroom of Pierce County District Court Judge,
5 Lizanne Padula.

6 15. Ms. Chandra was paid a salary of \$70,673.81 a year, and other valuable
7 benefits of employment.

8 16. On or about March 26, 2020 Ms. Chandra emailed Deputy Prosecuting
9 Attorney (DPA) Diana Chen about her intention of attending military training to become
10 an officer and Judge Advocate General (JAG) in the Army National Guard.

11 17. Ms. Chen responded positively and indicated her support for military
12 service.

13 18. Between March 26, 2020 and April 20, 2020, Ms. Chandra spoke to
14 persons in the workplace about her joining the Army National Guard. These people
15 included DPA's Michael McMillan, James Atchley and Patrick Vincent.

16 19. On April 22, 2020, Ms. Chandra officially joined the Army National Guard
17 as an E-4 specialist with a Military Occupational Specialty of 09S (Officer Candidate).

18 20. Between April 22, 2020 and April 23, 2020, Ms. Chandra exchanged emails
19 with Human Resources Manager, Gayle Robbins to arrange military leave.

20 21. On April 23, 2020, Ms. Chandra received an email response from Human
21 Resources Manager, Gayle Robbins that stated:

22 Hi Alysha:

23 I had a conversation with Lana who has also spoken with
24 Mary. Unfortunately, due to the current hiring freeze and

1 already being down two positions in our Misdemeanor Unit we
2 are not in a position to approve extended leave at this time.
3 As the climate stabilizes in the future we would be open to
4 revisiting your request.

5
6 GAYLE ROBBINS
7 HUMAN RESOURCES MANAGER
8 PIERCE COUNTY PROSECUTING ATTORNEY'S OFFICE

9
10 22. In direct contravention of USERRA, 20 C.F.R. §§ 1002.104, 1002.87,
11 defendants denied Ms. Chandra military leave.

12 23. On or about April 25th Ms. Chandra called Ms. Robbins via phone. Ms.
13 Robbins said that:

- 14 a. It would be hard to staff Ms. Chandra's cases because of the hiring freeze.
- 15 b. The firm was "not in a position to have Ms. Chandra on extended leave."
- 16 c. She [Ms. Chandra] should "hold-off" on reporting to the military.
- 17 d. Military leave might interfere with Ms. Chandra's probation and the handling of
18 this leave was a discretionary matter for the firm to decide.
- 19 e. Military leave was not protected because Ms. Chandra was still on probation.

20 24. Ms. Chandra had a phone conversation with Diana Chen on or about April
21 25, 2020. Ms. Chen said that there was an employee named Patrick Vincent who was
22 a member of the military and "he hasn't really moved up at the prosecutor's office
23 because his military career has him out of town frequently; and that's why he is still doing
24 remedial felonies."

25 25. After Ms. Chandra received the above email she responded by asking for
26 a letter from the defendant that she could show the United States Army in order to delay
27 her report date of June 22, 2020 to Fort Jackson, South Carolina.

1 26. Ms. Chandra did not receive a response to her request, but was eventually
2 told that the defendant did not wish to provide her with such a letter.

3 27. On or around April 27, 2020, Ms. Chandra called her supervisor DPA Diana
4 Chen to report her concerns and the defendant's violation of the USERRA.

5 28. Ms. Chen told Ms. Chandra that she was "shocked" and did not foresee
6 this happening. She also advised Ms. Chandra to "hold off until things with COVID
7 simmered down" and then readdress the issue with the defendant(s).

8 29. Based on her conversation with Ms. Chen, Ms. Chandra reported the
9 situation to National Guard Recruiter, Sergeant Dunnington. Ms. Chandra asked for her
10 report date to be delayed because of her fear of losing her job with the defendant.

11 30. On or about May 1, 2020, Sergeant Dunnington was able to delay Ms.
12 Chandra's report date to the Army until August 31, 2020. Her destination was also
13 changed to Fort Sill, Oklahoma.

14 31. In June of 2020, Ms. Chandra received an email from her direct supervisor
15 Diane Clarkson telling Ms. Chandra that she was "impressed with her work performance"
16 and to keep up the good work.

17 32. In June 2020 court operations in the Pierce County District Court slowly
18 resumed after COVID-19 closures.

19 33. Ms. Chandra took this opportunity to re-address the issue of reporting to
20 the Army with the Ms. Chen and asked Ms. Chen to talk to others within the office about
21 her upcoming obligation to report to the Army on August 31, 2020.

1 34. On or about July 9, 2020 Ms. Chen informed Ms. Chandra that Ms. Robbins
2 from HR and Ms. Clarkson had said that they “weren’t in a position to have Ms. Chandra
3 gone for 9 weeks.”

4 35. Ms. Chen also stated to Ms. Chandra that “things would have been different
5 had Ms. Chandra disclosed her interest in military service during her hiring process.”

6 36. In direct contravention of USERRA, 20 C.F.R. §§ 1002.104, 1002.87,
7 defendants denied Ms. Chandra military leave.

8 37. Ms. Chandra told Ms. Chen that “this doesn’t make any sense since two
9 DPA’s were just on maternity/paternity leave, and that if I got pregnant this would not be
10 an issue.”

11 38. On July 9, 2020 Ms. Chen responded by telling Ms. Chandra that
12 “parenthood is protected and this military duty is not.”

13 39. Ms. Chandra told Ms. Chen that she was incorrect and that “Military service
14 is protected as well.”

15 40. On Friday, July 10, 2020, Ms. Chen told Ms. Chandra to “hold off on making
16 any decisions” because administration was going to look into her request for military
17 leave further and would get back to her next week.

18 41. Ms. Chen also stated that she “encouraged military service” and that her
19 views on the importance of military service were “different than the views of others in the
20 office.”

21 42. On Monday, July 13, 2020, Ms. Chandra received a 6-month performance
22 review with various positive and negative feedback.

1 43. An in-person meeting was scheduled between Ms. Chandra and Ms.
2 Clarkson to review the performance review on July 15, 2020.

3 44. On July 15, 2020, Ms. Chandra appeared in person to have an in-person
4 conversation about her 6-month performance review with Ms. Chen and Ms. Clarkson.

5 45. At the meeting Ms. Clarkson handed Ms. Chandra a letter of termination
6 signed by elected Pierce County prosecutor Mary Robnett. The letter stated:

7 “Your employment is terminable at-will, with or without cause
8 and I am exercising my option not to continue your
9 employment at this time.”

10 46. Defendants’ termination “at-will” is a pretext to hide unlawful discrimination
11 and relation.

12 47. Ms. Robnett’s letter stated no specific reason for termination.

13 48. Ms. Chandra suffered economic injury, as well as other harms and losses
14 as a result of Defendants’ failure to follow USERRA and Washington law.

15 49. Defendants’ actions are the direct and proximate cause of Ms. Chandra’s
16 damages.

17 50. As a result of Defendants’ unlawful conduct in violation of USERRA and
18 Washington law, Ms. Chandra has suffered a loss of earnings and other benefits of
19 employment in an amount to be proved at trial. Further, as a result of Defendants’
20 unlawful conduct and the necessity of this action to seek a remedy, Ms. Chandra fears
21 further retaliation (*i.e.* the continued disparagement of her in comments by Defendants
22 to Ms. Chandra’s colleagues in the legal community) against her employment prospects,
23 and rights by Defendants or its managers, directors or employees. As such, any
24

1 employment relationship that Ms. Chandra may have enjoyed with Defendants prior to
2 the filing of this action is irreparably damaged through no fault of Ms. Chandra.

3 51. Upon information and belief, Defendants are a party to contracts with the
4 State of Washington which prohibit Defendants from discrimination against veterans and
5 military service members and further evidence of its knowing and reckless disregard for
6 the protections afforded a service member under USERRA.

7 52. At all times relevant hereto, Defendants had a duty to conduct themselves
8 in compliance with the law, including USERRA and ensure its managers and agents
9 followed the Act.

10 53. The above-referenced actions by Defendants, and their agents, breached
11 those duties.

12 54. To the extent that Defendants allege application of any agreement that
13 constitutes any limitation on Plaintiff's rights under USERRA, it is illegal, null and void,
14 inapplicable and of no force or effect pursuant to 38 U.S.C. § 4302.

15 55. Upon information and belief, Defendants maintained workplace posters
16 that set out employer responsibilities under USERRA as required by 38 U.S.C. § 4334.

17 56. Defendants are highly trained legal professionals, with experience and
18 immediate access to the provisions of USERRA and the laws of the state of Washington,
19 with the support of a sophisticated Human Resources Department, including immediate
20 access to professional human resources personnel, and specially trained employment
21 counsel.

V. CAUSES OF ACTION

**(CAUSE OF ACTION NO. 1 – VIOLATION OF 38 U.S.C. § 4311(a) -
DISCRIMINATION)**

1. Under 38 U.S.C. § 4311(a) an employee shall not be denied retention in employment by an employer on the basis of a duty to perform a military obligation.

2. Ms. Chandra's requirement that she enter active duty for Officer training is a military obligation.

3. Ms. Chandra's military service was a motivating factor in Defendants' decision to terminate her employment given, *inter alia*, the closeness in time (hours) between Ms. Chandra informing the Defendants of her military obligation, the Defendants' statement denying military leave, in contravention of clearly stated prohibition under USERRA.

4. Defendants' termination of Ms. Chandra and subsequent acts, constitute adverse employment actions that has caused Ms. Chandra damages in an amount to be proven at trial.

**(CAUSE OF ACTION NO. 2 – VIOLATION OF 38 U.S.C.
§ 4311(b) - RETALIATION)**

5. Under 38 U.S.C. § 4311(b) an employer may not discriminate in employment or take any adverse employment action against any such person because such person has taken an action to enforce a right or protection or exercise a right afforded under USERRA.

6. Ms. Chandra's actions to enforce a protection afforded her under USERRA, or to exercise a right provided by USERRA, was a motivating factor in Defendant's decision to deny Ms. Chandra employment and benefits of employment.

1 7. Defendants unlawfully retaliated against Ms. Chandra, among other ways,
2 by denying Ms. Chandra employment and benefits of employment because she took
3 action to enforce a protection afforded her under USERRA or to exercise a right provided
4 by USERRA. Defendants continue to retaliate against Ms. Chandra by their continued
5 disparagement of her in comments made to Ms. Chandra's colleagues in the legal
6 community and attempting to negatively influence her future employment prospects.

7 **(CLAIM FOR LIQUIDATED DAMAGES – 38 U.S.C. § 4323)**

8 8. Plaintiff is entitled to liquidated damages under USERRA because the
9 Defendants knew, or showed reckless disregard for whether its conduct was prohibited
10 under USERRA.

11 **(CAUSE OF ACTION NO. 3 - VETERANS DISCRIMINATION - VIOLATION OF RCW**
12 **49.60.030 & RCW 49.60.180)**

13 9. Under the Washington Law Against Discrimination an employer cannot
14 take an adverse action against an employee on, *inter alia*, account of that employee's
15 military/veteran status.

16 10. Defendants violated Ms. Chandra's WLAD-guaranteed protection from
17 military related employment discrimination for the reasons stated above.

18 11. Defendants' violations of the WLAD have caused Ms. Chandra damages
19 in an amount to be proven at trial.

20 **V. PRAYER FOR RELIEF**

21 Plaintiff respectfully prays for:

22 A. Compensation for all injury and damages suffered by Ms. Chandra
23 including, but not limited to, both economic and non-economic damages, in the amount
24 to be proven at trial including back pay, front pay, pre and post judgment interest, lost

benefits of employment, adverse tax consequences of any award for economic damages pursuant to Chapter RCW 49.60 et seq., liquidated damages under both federal and Washington law for willful violations as it relates to the improper withholding of wages and benefits and general damages relating to emotional distress and mental anguish damages as provided by law.

B. Plaintiff's reasonable attorneys, expert fees, and costs, pursuant to 38 U.S.C. § 4323, and as otherwise provided by law under RCW 49.48.030 and 49.60.030(2), as well as the *private attorney general* theory of recovery of reasonable attorney fees and costs in employment related cases.

C. For such other and further relief as this Court deems just and equitable.

Respectfully submitted this August 5, 2020.

/s John M. Tymczyszyn
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